IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.23550 of 2003

Between:

M.A. Gaffar S/o M.A. Haneef,
R/o 10-4-13/4, Near St. Therasa's High School,

Humayun Nagar, Masab Tank, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, represented by its Secretary,

Municipal Administration & Urban Development (TC.2) Department,

Secretariat Buildings, Hyderabad.
2 P. Raja Rao, Contractor, R/o Gunnadala, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of writ of "Mandamus" declaring the action of the respondent in issuing G.O. Rt. No. 1407 M.A, dated 29-10-2003, issued by the 1st respondent as being illegal, arbitrary, unconstitutional and set aside the same.

Counsel for the Petitioner: MR.T.SRIKANTH REDDY

Counsel for the Respondent No.1: GP FOR MUNCIPAL ADMN. & URBAN DEVELOPMENT

Counsel for the Respondent No.2: None appeared.

The Court made the following:

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ORDER:

The petitioner approached the Government requesting to issue necessary directions/guidelines to all the Municipalities and Municipal Corporations in the State of Andhra Pradesh, to utilize the services of the petitioner wherever necessary for supplying House number plates of 10" x 3" size at the rate of Rs.20/-. The Government considered the request and by orders made in G.O. Rt.No.228 Municipal Administration and Urban Development (TC.1) Department dated 19.3.2001 communicated their decision to permit the Municipalities and Municipal Corporations to utilize the services of the petitioner for the said purpose.

The second respondent herein, also made a representation to the Government expressing his willingness to take up the work of aluminum number plates of 10" x 3" size at the rate of Rs.18/-. Having considered the same, the Government issued yet another G.O. Rt. No.279 Municipal Administration and Urban Development (TC.2) Department dated 22.05.2003 permitting the Municipalities and Municipal Corporations to utilize the services of the petitioner and second respondent for fixing house number plates. The Director of Municipal Administration was requested to work out the rate and jurisdictions of the second respondent and petitioner. Challenging the G.O. Rt. No.279, the petitioner herein filed a writ petition being W.P. No.10445 of 2003. This Court while admitting the writ petition on 16.6.2003, directed *status quo* to be maintained as on that date. Be that as it is, the Government again issued the impugned order being G.O. Rt. No.1407 Municipal Administration and Urban Development (TC.I) Department dated 29.1.2003 whereby and whereunder the Government suspended G.O. Rt.Nos.228 as well as 279, under which the petitioner and second respondent were conferred the privilege of supplying the House number plates. This Court while admitting the present writ petition challenging the G.O. Rt. No.1407, suspended the impugned order by order made in W.P.M.P. No.29597 of 2003, the first respondent has now come forward with an application WVMP No.2366 of 2004 praying this Court to vacate the interim order dated 10.11.2003. As the controversy lies in a very narrow compass, the matter itself is heard finally with the consent of the learned counsel for the petitioner, learned Assistant Government Pleader for Municipal Administration and Urban Development.

Sri K. Pratapa Reddy, learned Senior Counsel attacks the G.O. Rt. No.1407 only on the ground that the same is unsustainable being violative of principles of natural justice. According to the learned Senior Counsel G.O. Rt. No.228 dated 19.3.2001

confers a right on the petitioner to supply the House number plates to all the Municipalities and Municipal Corporations wherever necessary and the same cannot be denied without giving notice to the petitioner. **Per contra,** the learned Assistant Government Pleader contends that the Government only permitted Municipalities and Municipal Corporations to utilize the services of the petitioner wherever necessary and the same does not confer any right to the petitioner requiring the issue of notice prior to passing of G.O. Rt. No.1407.

In the counter affidavit filed by the Assistant Secretary to Government in Municipal Administration and Urban Development, the reason for suspending G.O. Rt. Nos.228 as well as 279, is stated thus:

It is submitted that to take transparent procurement policy and to work out the rate and jurisdiction, the Government issued orders in G.O. Rt. No.1407, dated 29.10.2003 suspending the G.O. Rt. No.228, dated 19.3.2001 and 279 dated 22.5.2003 in which orders were issued to utilize the services of Sri M.A. Gaffar and Sri Raja Rao for fixing of Number Plates in Municipalities wherever necessary.

It is submitted that in G.O. Rt. No.228, dated 19.3.2001 and G.O. Rt. No.279 dated 22.5.2003, the work of fixing of number plates entrusted to Sri M.A. Gaffar and Sri Raja Rao on nomination basis based simply on their unsolicited applications without going through any transparent procedure like tender process. As such, the order passed in G.O. Ms. No.1407 dated 29.10.2001 are in order and as per procedure.

It is no doubt true that inviting tenders for entrusting the work by public authority would ensure transparency and subserves public interest. This principle was followed more in breach when the Government issued G.O. Rt. No.228 dated 19.3.2001 and G.O. Rt. No.270 dated 22.5.2003, when the unsolicited proposals of the petitioner as well as the second respondent were accepted and they were entrusted with the work of fixing number plates without tenders or bids. Be that as it is, the G.O. Rt. No.228 dated 19.3.2001 enabled and permitted all the Municipalities and Municipal Corporations to engage the services of the petitioner herein wherever necessary for fixing the House number plates in the Municipalities and Corporations. Presumably, the said privilege was conferred on the petitioner, having regard to the experience of the petitioner in doing similar job for more than four decades, at the rate of Rs.20/- per each number plate was fixed as Ananthapur Municipality was paying the said amount to the petitioner. This only indicates that the petitioner herein has a legitimate expectation flowing from G.O. Rt. No.228, in that, he was assured of the job of fixing number plates in all the Municipalities and Municipal Corporations. This legitimate expectation is denied to the petitioner without following the principles of natural justice. It is no doubt that the policy as such may deny a legitimate expectation without notice, but, as seen from the counter affidavit, a portion of which is extracted, the Government has not yet formulated any policy in this regard. Therefore, pending the formulation of such policy as projected in the counter affidavit, the petitioner cannot be denied the privilege without prior notice.

For the above reasons, the impugned G.O. Rt. No.1407 dated 29.10.2003 insofar as it suspends G.O. Rt. No.228 dated 19.3.2001 is set aside. The matter shall go back to the first respondent for taking appropriate action keeping in view the observations and directions herein above. The exercise may be completed within a period of six weeks from the date of receipt of this order.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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September 7, 2004. (**V.V.S. RAO, J**)

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Note:

Office to dispatch

Copy of order within

Three days.

(B/o)

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Municipal Administration & Urban Development

(T.C.2) Department, Government of Andhra Pradesh,

Secretariat Buildings, Hyderabad.

2. Two CCs to the Government Pleader for Municipal Administration &

Urban Development, High Court of Andhra Pradesh, Hyderabd (O.U.T)

3. Two CD copies.